

**Before the  
Federal Communications Commission  
Washington, DC 20554**

<b>In the matter of</b>	)	
	)	
<b>Changes in Retail Point of Sales of all over</b>	)	<b>RM-10641</b>
<b>Counter 2-way voice or data equipment</b>	)	
	)	

**COMMENTS IN OPOSITION**

**To the Commission:**

- 1. Introduction.** The above captioned matter was brought before the  
  
**Federal Communications Commission (“The Commission”) in a  
  
Rule Making Petition filed by Dale E. Reich. The petition for  
  
Rule Making was opened for comments, under the proceeding  
  
number: RM-10641. As a radio owner, radio purchaser, and  
  
radio operator who would be both directly and indirectly  
  
adversely affected by the petitioner’s requests, I appropriately  
  
comment herein,**
- 2. Commenter’s Background.** The commenter is a licensed Amateur  
  
**Radio Service operator, holds a UHF General Mobile Radio  
  
Service authorization (license), and is a user of a number of Part  
  
95 ‘authorized by rule’ services. The commenter also holds a  
  
Commercial Pilot license, both Coast Guard and Merchant**

**Marine Ocean Operator (Captain) licenses, a Radio Telephone Operator's Permit (aircraft/ship), and has had extensive experience in electronics and communications in both military and civilian venues.**

- 3. Discussion. The petitioner's requests, supposedly to benefit law enforcement, in fact place additional legal and administrative burdens on those very agencies (town, city, county, state, province/possession, and federal) that far outweigh any of the supposed benefits. The petitioner has, in my opinion, failed to recognize that radio communications equipment noted ('radios') are in themselves not licensed to individuals in the services noted in the petition. It is the 'operators' and/or 'operations' of that equipment that are licensed and/or authorized by The Commission. Additionally, local law enforcement generally lacks enough understanding of the FCC Regulations to effectively enforce the rules of The Commission. Federal pre-emption may also invalidate the enforcement possibilities noted by the petitioner. It is not the purview of local law enforcement or non-federal judiciary to regulate or otherwise enforce federal statutes and regulation. This is especially true in respect to the very high**

**volume sales (millions of units per year) of radios for consumer venues such as AMATEUR, FRS, GMRS, MURS, Cellular and Paging radio services even radio transmitters certified under PART 15 of The Commission's rules.**

- 4. Federal Paper-Work Reduction efforts. The petitioner's requests would create undue additional 'paper work', both physical and virtual (electronic) seemingly in conflict with the federal government's general paper-work reduction efforts (Federal Paperwork Reduction Act of 1980). What the petitioner is asking for, in a round-about way, is a semblance of a registration system for the purchase of stated radios. Annual purchase volume, including resale and trade-ins, probably number in the many millions each year. Added to this would need to be a method of tracking radio ownership/registration changes including the potential for millions of ownership and address changes annually. Such a system would have virtually no benefit to law enforcement for a number of reasons: (a) A reasonably large percentage of said radios change hands via non-regulated venues such as private sales, on-line sales & auctions, garage sales, trade-ins, and just even discards of working equipment; (b) Evil doers would simply**

**‘register’ their radios with fictitious names and/or addresses.**

**There is no legal requirement for an operator (even a licensed operator) to divulge or disclose the identity of the radio’s owner without a court sanctioned order. Radios may be legally bought as gifts, loaned, leased, rented, given as gifts, scrapped, dismantled, repaired, discarded even if operative, transferred, or resold – all without any FCC notification required. This is a basic point in the fact that radios themselves are type ‘certified’ and not licensed to individuals. Only the operators and/or the operations thereof are licensed and/or authorized by The Commission; (c) Law enforcement would have virtually no recourse if an operator had a ‘tagged’ radio with another person’s name. Additionally, local law enforcement may have no reference available of people without driver’s licenses or without telephones listed in their names; (d) Local law enforcement (town, city, county, and state) have very little or no jurisdiction over a venue that is regulated and/or licensed by the federal government. This is a basic legal point in federal preemption.**

- 5. Financial and Administrative Burden. The effort required of sellers and resellers would place an undue financial and**

**administrative burden on them that does not currently exist.**

**There would additionally be a financial and administrative burden placed on law enforcement and the non-federal judicial system that does not currently exist. The petitioner has failed to make a clear and convincing case about the benefits that would result from such a system or even how it would compare with any such burdens and/or costs.**

- 6. Enforceability. Radios themselves, for the services noted, have already gotten to be generally pocket-size devices and not generally accessible to law enforcement without ‘probable cause’ or a court sanctioned warrant. Enforcement of such a system would require efforts and financial responsibilities beyond what is currently available to law enforcement. In order to enforce such regulations (including the auditing of retailers and other e-sellers), law enforcement would be required to sacrifice other more beneficial efforts to free up manpower and financial resources for the staffing, training, efforts, court appearances, etc. Laws and regulations that are unenforceable, or not enforced regularly and uniformly, breed general disdain and contempt for laws and regulations as a whole. The entirety of the petitioner’s**

requests seem to be in opposition to The Commission's efforts in the past few years to lighten the FCC's load.

7. **Commenter's Conclusions.** The petitioner's request seems almost Pollyanna-like and displays neither factual benefits to law enforcement nor any tangible improvements in overall security for the United States or its citizens and legal visitors. The petition would create undue financial and administrative burdens in a number of government and non-government venues without providing for any funding or reimbursements. The United States has much more pressing law enforcement and security concerns that are already not being adequately addressed; i.e.; illegal immigration, potential terrorism, and the illegal import, sale and use of controlled substances ('drugs'). The commenter is **OPPOSED** to all portions of the petitioner's request as stated in RM-10641.

Electronically submitted via the FCC's "Electronic Comment Filing System" (<http://www.fcc.gov/cgb/ecfs/> )

Respectfully Submitted on 04 February 2003

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